

221622

February 15, 2008

ENTERED  
Office of Proceedings

FEB 15 2008

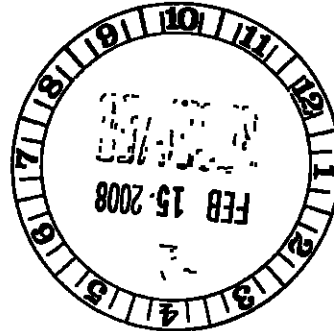
Part of  
Public Record

Janie Sheng  
D 202 778 9844  
F 202 778 9100  
jsheng@klg.com

**Hand Delivery**

ATTN: Phillis Johnson-Ball  
Environmental Filing  
STB Finance Docket No. 35087

Surface Transportation Board  
395 F. Street, S.W.  
Washington, D.C. 20423-0001



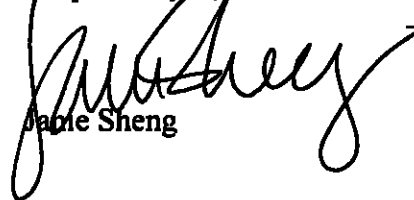
**RE: STB Finance Docket No. 35087  
Canadian National Railway Company and Grand Trunk Corporation –  
Control – EJ&E West Company**

Dear Ms. Johnson-Ball

Enclosed for filing is the original and 10 copies of the Village of Barrington's Comments to the Draft Scope of the Environmental Impact Statement in the above-captioned proceeding.

Please acknowledge receipt of this filing by date-stamping the acknowledgement copy and returning it to our messenger.

Respectfully submitted,

  
Janie Sheng

Enclosure

cc All parties of record

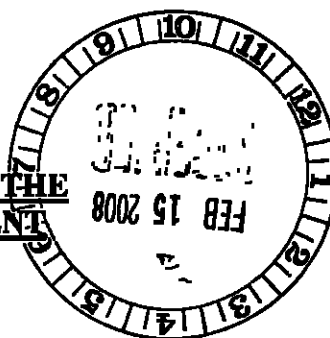
BEFORE THE  
SURFACE TRANSPORTATION BOARD

22/622

Finance Docket No 35087

CANADIAN NATIONAL RAILWAY COMPANY AND GRAND TRUNK CORPORATION  
- CONTROL -  
EJ & E WEST COMPANY

THE VILLAGE OF BARRINGTON'S  
COMMENTS TO THE DRAFT SCOPE OF THE  
ENVIRONMENTAL IMPACT STATEMENT



ENTERED  
Office of Proceedings

FEB 15 2008

Part of  
Public Record

Kevin M Sheys  
Edward J Fishman  
Janie Sheng  
Brendon P Fowler  
Kirkpatrick & Lockhart Preston Gates Ellis LLP  
1601 K Street NW  
Washington, D C 20006  
(202) 778-9000

ATTORNEYS FOR  
THE VILLAGE OF BARRINGTON,  
ILLINOIS

Dated February 15, 2008

BEFORE THE  
SURFACE TRANSPORTATION BOARD

---

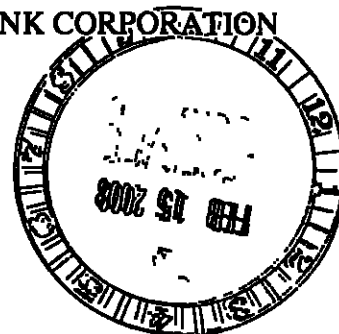
Finance Docket No. 35087

---

CANADIAN NATIONAL RAILWAY COMPANY AND GRAND TRUNK CORPORATION  
- CONTROL -  
EJ & E WEST COMPANY

---

**THE VILLAGE OF BARRINGTON'S  
COMMENTS TO DRAFT SCOPE OF THE  
ENVIRONMENTAL IMPACT STATEMENT**



Pursuant to the Decisions served by the Surface Transportation Board on November 26, 2007 and December 21, 2007 in the above-captioned proceeding, the Village of Barrington, Illinois ("Barrington"), on behalf of itself and the surrounding townships and municipalities that rely on Barrington for essential services (collectively the "Barrington Community"),<sup>1</sup> hereby submits these comments to the draft scope of the Environmental Impact Statement ("Draft Scope")

**GENERAL COMMENTS**

Barrington is the commercial hub of the Barrington Community. The village has single and multi-family dwellings as well as offices, schools, churches, shops and a Metra commuter train station. The Barrington Community has a population in excess of 30,000, with 1,600 commuters riding Metra daily. The area includes tracts of open space, including Cuba Marsh and the Crabtree Forest Preserve, as well as other wetlands and parks.

---

<sup>1</sup> The Barrington Community consists of the Villages of Barrington, Barrington Hills, Deer Park, Lake Barrington, North Barrington, South Barrington and Tower Lakes, and Barrington and Cuba Townships.

The EJ&E Line traverses Barrington through its center<sup>2</sup> Over the decades, the EJ&E Line has been a light density railroad with very few trains passing through Barrington The EJ&E Line crosses four roads and the Metra train line at grade within a span of 5,918 feet within Barrington's village limits. The EJ&E Line also crosses a fifth heavily-traveled road, Cuba Road, just east of the village limits, which sees average daily traffic of 8,300<sup>3</sup> The most easterly crossing in Barrington at Lake Zurich Road is at the entrance to a 55-acre park recently developed by the Barrington Park District and home of the first accessible tree house in the State of Illinois Moving westward through Barrington, the next two roads crossed by the EJ&E are very busy highways – U.S Route 14, with a weekday average of about 30,000 trips per day, and Illinois Route 59 (a strategic regional arterial) with about 21,000 trips per weekday<sup>4</sup> After crossing Route 59, the EJ&E Line crosses the Union Pacific Northwest line before crossing the fourth road, Lake Cook Road/Main Street (about 17,300 trips per weekday), very near Barrington High School which has a student and staff population of over 3,000 and serves the entire greater Barrington area In fact, all four crossings (i.e., Lake Zurich Road, U.S. 14, Route 59 and Lake Cook Road), are so tightly clustered within a distance of only 1.12 miles that one freight train could shut down all four thoroughfares simultaneously This not only poses real problems for vehicular and pedestrian traffic, but also creates life-threatening delays by blocking emergency response vehicles

---

<sup>2</sup> See Barrington area Map attached as Exhibit 1

<sup>3</sup> 2004 U.S. Department of Transportation Crossing Inventory Information

<sup>4</sup> Traffic counts were derived from a traffic study conducted in November 2007 over a seven consecutive day period which measured traffic in each lane and direction This information was compiled to calculate average weekday trips

According to the CN Application, the Leithton to Spaulding segment (the segment that runs through Barrington) will see a significant increase in rail traffic – 15 trains per day for a total of 20.3 trains per day as a result of the CN Transaction<sup>5</sup> That is an increase of 676 percent in gross tons per day It is without doubt that such an increase in freight rail traffic will have substantial adverse impacts on the Barrington Community

The Village of Barrington serves as the commercial hub for the Barrington Community In addition, the surrounding communities also rely on Barrington for essential services such as the high school, the two middle schools, the Catholic grade school, the public library and numerous social service agencies The headquarters for fire/EMS and police response is located at the Public Safety Facility on U S Route 14, less than one-quarter of a mile from the EJ&E crossing Barrington Fire Department Station #1 (at the Public Safety Facility) provides primary response to Barrington and surrounding areas, and functions as the primary backup for a majority of the area served by its two satellite stations

Barrington and the Barrington Community urge SEA to look beyond the limited three-year period of CN's Application and consider a more appropriate period that reaches to 2035<sup>6</sup> and takes into account all of the reasonably foreseeable impacts of the proposed transaction SEA must look beyond CN's short-term case projections and consider the longer-term environmental impacts of the proposed transaction CN's planned investments in the Fairview

---

<sup>5</sup> See Application, Attachment A 2, at 247

<sup>6</sup> The U S Department of Transportation has projected demand for rail freight transportation out to 2035 (estimated that it will increase by 88% by tonnage) The Association of American Railroads commissioned a study to identify the rail freight infrastructure improvements and investments in the continental United States rail network that will allow the freight railroads to meet the U.S Department of Transportation's projected demand for rail freight transportation in 2035 See *National Rail Freight Infrastructure Capacity and Investment Study*, Prepared for the Association of American Railroads, September 2007.

Container Terminal at the Port of Prince Rupert will drive its international freight traffic growth for years to come and that traffic growth directly will impact Barrington in the form of more freight trains per day on the EJ&E Line. By the first quarter of 2011, for example, Fairview's container capacity will quadruple in part from CN investment, yet none of the effects of this dramatic increase is captured in CN's Application because of the limited three-year time period.

Another foreseeable source of increased freight traffic along the EJ&E Line is coal traffic from the Powder River Basin ("PRB") in Wyoming. Currently under Board review is the Canadian Pacific Railway Company and its affiliates' ("CPRC") proposed acquisition of control over the assets of the Dakota, Minnesota & Eastern Railroad Corporation and its affiliates ("DME").<sup>7</sup> As part of the agreement, CPRC will acquire the DME rights to build a new rail line into the coal-rich PRB. It is our understanding that significant steps toward construction of the rail line have been made and that construction and operation of the PRB line is a reasonably foreseeable result of the CPRC/DME merger. The Barrington Community is concerned that once the PRB line is built, the downstream effect will be a significant volume of coal traffic routed through the Chicago area, a factor that the Board and SEA must take into account here. According to the BNSF Railway Company's ("BNSF") comments,<sup>8</sup> the most likely routing of PRB coal into Chicago via CPRC proceeds over CPRC's main line to Chicago from a connection with DME's main line in Minnesota City. The coal traffic would head east over CPRC's line through Milwaukee and approach Chicago from the north on the CPRC line that crosses the

---

<sup>7</sup> See *Canadian Pacific Railway Company, et al – Control – Dakota, Minnesota & Eastern Railroad Corporation, et al*, STB Fin Docket No. 35081 ("CPRC/DME Merger") (Oct 5, 2007)

<sup>8</sup> See *BNSF Railway Company's Comments on the Environmental Review Procedures Proposed in the Application by Canadian Pacific Railway Company, et al. For Approval of Control of Dakota, Minnesota & Eastern Railroad Corporation, et al*, STB Fin Docket No. 35081 (Oct 24, 2007)

EJ&E Line at Rondout. Alternatively, the coal traffic could be routed on DME's line across northern Illinois, crossing the EJ&E Line at Spaulding. In either case, CPRC's new coal traffic could trigger train delays and back-ups on the EJ&E because neither of the involved EJ&E Line crossings (Rondout or Spaulding) is grade separated. This is an additional reason why a limited three-year time period is not adequate to capture the volume of freight traffic that will develop in the Chicago area and the true impact that traffic will have on Barrington.

Finally, Barrington and the Barrington Community implore the Board and SEA to allow a longer time period to comment on the Draft Environmental Impact Statement ("DEIS"). Currently, the Board has set a comment period of only 45 days which is not a sufficient amount of time for communities to respond. The Barrington Community needs more time to independently gather and analyze the information and data and prepare an appropriate response. From the time of the Board's decision served December 21, 2007, Barrington's response and comment periods have been very short. The Barrington Community only had 19 days to prepare for the Open House meeting with SEA. Similarly, although the Board granted an extension for interested parties to file comments to the Draft Scope, the extension was not granted until two days before the comments originally were due. Because of the significant adverse effects this transaction could have on the area, the Barrington Community urges the Board and SEA to establish at least a 120-day comment period for the DEIS and to provide timely and sufficient notice of any extensions of time to respond.

### **LEGAL STANDARD**

#### **I. The National Environmental Policy Act Mandates that the Board Carefully Analyze All Significant Environmental Consequences**

The National Environmental Policy Act ("NEPA") generally requires federal agencies to consider "to the fullest extent possible" environmental consequences "in every recommendation

or report on major federal actions significantly affecting the quality of the human environment.” 42 U.S.C. § 4332(2)(C). Specifically, NEPA requires a federal agency such as the Board to prepare a detailed Environmental Impact Statement (“EIS”) for all “major Federal actions significantly affecting the quality of the human environment.”<sup>9</sup> NEPA thus “ensures that the agency will have available, and will carefully consider, detailed information concerning significant environmental impacts; it also guarantees that the relevant information will be made available to the larger [public] audience.”<sup>10</sup> As the Supreme Court has stated, “by focusing the agency’s attention on the environmental consequences of a proposed project, NEPA ensures that important effects will not be overlooked or underestimated only to be discovered after resources have been committed or the die otherwise cast.”<sup>11</sup>

**A. The Board Must Take A “Hard Look” at the Real and Potential Environmental Consequences of the Proposed Transaction, Including Alternatives to the CN Transaction**

NEPA’s “sweeping policy goals” are realized through a set of “action-forcing” procedures that require agencies to take a “hard look” at environmental consequences.<sup>12</sup> Congress did not intend the agency to “contemplate the environmental impact of an action as an abstract exercise” but rather that the “hard look” be “incorporated as part of the agency’s process of deciding whether to pursue a federal action.”<sup>13</sup> Indeed, the Board has already acknowledged

---

<sup>9</sup> *Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1212 (9<sup>th</sup> Cir. 1998).

<sup>10</sup> *Id.* (citing *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989)).

<sup>11</sup> *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989).

<sup>12</sup> *Id.* at 350.

<sup>13</sup> *Baltimore Gas and Elec. Co. v. Natural Resources Defense Council, Inc.*, 462 U.S. 87, 100 (1983).



the extensive scope of its NEPA obligations<sup>14</sup> In particular, NEPA's EIS process "will ensure that the Board takes a hard look at environmental consequences required by NEPA"<sup>15</sup>

However, simply deciding to create an EIS does not, by itself, fulfill the Board's requirements under NEPA In order to comply with the "hard look" requirement, the EIS must permit a court to "determine whether the agency has made a good faith effort to consider the values NEPA seeks to protect."<sup>16</sup> Reviewing courts have repeatedly faulted agencies for errors and omissions related to the creation of an EIS, including failures to consider cumulative impacts, omission of scientific evidence and sources, or failure to discuss mitigation measures<sup>17</sup>

Furthermore, "NEPA provides that an EIS must contain a discussion of "alternatives to the proposed action," and that federal agencies must "study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved

---

<sup>14</sup> See *Canadian National Railway Company and Grand Trunk Corporation – Control – EJ&E West Company*, STB Finance Docket No. 35087, 14-15 (Board served November 26, 2007) ("In this case . . . a full EIS is warranted in view of the large projected traffic increases on certain line segments, and the potential impacts of the proposed transaction on a number of communities that would likely result from the increased activity levels on rail lines segments and at rail facilities.") ("Decision No. 2")

<sup>15</sup> Decision No. 2, at 15

<sup>16</sup> *Mid States Coalition for Progress v. S.T.B.*, 345 F.3d 520, 533 (8<sup>th</sup> Cir. 2003), see also *Gulf Restoration Network v. U.S. Dept. of Transp.*, 452 F.3d 362, 367 (5<sup>th</sup> Cir. 2006) (in assessing adequacy of EIS, the court has three considerations: (1) whether the agency in good faith objectively has taken a hard look at the environmental consequences of a proposed action and alternatives; (2) whether the EIS provides detail sufficient to allow those who did not participate in its preparation to understand and consider the pertinent environmental influences involved, and (3) whether the EIS explanation of alternatives is sufficient to permit a reasoned choice among different courses of action)

<sup>17</sup> See, e.g., *Sierra Club v. Bosworth*, 199 F.Supp.2d 971, 980, 983 (N.D. Cal. 2002) (EIS failed to disclose or analyze scientific evidence supporting or contradicting agency's position, and failed to adequately disclose or analyze cumulative impacts as required by NEPA), *Mid States Coalition for Progress v. S.T.B.*, 345 F.3d 520, 533 (8<sup>th</sup> Cir. 2003) (SEA failed to take hard look at the "substantial issue" of mitigation)

conflicts concerning alternative uses of available resources”<sup>18</sup> This requirement is “the heart of the environmental impact statement”<sup>19</sup> The Board must “rigorously explore and objectively evaluate all reasonable alternatives” and give the same degree of analysis – i.e. “substantial treatment” – to each alternative that it devotes to the proposed action<sup>20</sup> Consequently, “[t]he agency must look at every reasonable alternative within the range dictated by the nature and scope of the proposal The existence of reasonable but unexamined alternatives renders an EIS inadequate”<sup>21</sup> Similarly, it is not sufficient for the Board to simply decide between a “no action” alternative, or approval of the CN Transaction NEPA requires contemplation of an adequate range of alternatives<sup>22</sup> The Board must consider all reasonable alternatives to the CN Transaction, including no action, CREATE, alternate routes, or reroutings of or other changes to the EJ&E Line or proposed CN operations This is especially important here because the potential effects of the proposed action impact the entire region beyond Barrington and the Barrington Community

**B. CN’s Portion Of The CREATE Program Is A Reasonable Alternative That SEA Must Evaluate**

One example of a reasonable alternative is the implementation of CN’s portion of the CREATE public-private partnership, a six-year plan that seeks to relieve rail and highway

---

<sup>18</sup> 42 U.S.C. § 4332(2)(C)(iii), (E)

<sup>19</sup> 40 C.F.R. § 1502.14

<sup>20</sup> 40 C.F.R. § 1502.14 (a) and (b)

<sup>21</sup> *Ilio’ulaokalani Coalition v. Rumsfeld*, 464 F.3d 1083, 1095 (9<sup>th</sup> Cir. 2006).

<sup>22</sup> *See, e.g., Muckleshoot Indian Tribe v. U.S. Forest Service*, 177 F.3d 800, 813 (9<sup>th</sup> Cir. 1999) (EIS that considered only a no action alternative along with two virtually identical alternatives was inadequate, agency had failed to consider alternatives more consistent with policy objectives, including action alternatives eliminated from detailed study after scoping)

congestion in the Chicago area. The partners of CREATE, of which CN is one, plan to use and improve upon their existing assets and rights in order to ease congestion and reduce train delays. Much work has gone into CREATE and the first project already has been completed. If CN had followed through on its share of projects for CREATE's Central Corridor starting in 2005, CN would be much closer to its goal of improved operations in Chicago than it is today.

The plans for CREATE projects that would improve CN's operations exist and are reasonable and feasible. Indeed, two of the projects are underway. Implementation of the *Central Corridor projects* mainly would involve improvements to existing right-of-way and track to create a new route through Chicago with additional capacity. The Central Corridor would follow a CN, Baltimore & Ohio Chicago Terminal Railroad ("B&OCT"), Norfolk Southern Railway Company ("NS") and Metra route from Franklin Park to Grand Crossing.<sup>23</sup> The projects include

- Upgrading part of the B&OCT Altenheim Subdivision to mainline standards (projects C1 and C1/C2 at an estimated cost of \$60 million),
- Constructing a new mainline on the NS where the former Panhandle mainline existed (projects C3 and C4 at an estimated cost of \$21 million, which are underway);
- Installing connections and upgrading track and signals on NS and CN (project C5 at an estimated cost of \$5 million),
- Increasing rail capacity, reducing circuitous routing, reducing community impacts of rail operations, and improving the efficiency of train movements while also providing CN with a route across Chicago that has sufficient clearance for double-stack trains from Brighton Park to Grand Crossing on NS, CN and Metra (projects C6, C8, C9, C10, C11, C12 and P4 at an estimated cost of \$97 million)

The purpose and need for CN's proposed purchase of the EJ&E Line matches the purpose and need for CN's portion of CREATE. CREATE most certainly is a reasonable and foreseeable

---

<sup>23</sup> See Central Corridor Map attached as Exhibit 2

alternative to the CN Transaction, therefore, the Board and SEA are required to analyze and examine CREATE in its Environmental Impact Statement ("EIS") SEA has recognized previously,<sup>24</sup> while the Board does not have the authority to force CN and the other CREATE stakeholders to fully implement the Central Corridor, the President's Council on Environmental Quality ("CEQ") regulations require that agencies should include alternatives outside their jurisdiction in their analyses<sup>25</sup> Furthermore, CEQ has provided guidance on alternatives outside of an agency's jurisdiction including "[a]lternatives that are outside the scope of what Congress has approved or funded must still be evaluated in the EIS if they are reasonable, because the EIS may serve as the basis for modifying the Congressional approval or funding in light of NEPA's goals and policies Section 1500 1(a) "<sup>26</sup>

### **C. Alternate Routes As Reasonable Alternatives**

There are numerous possible alternative Chicago bypass routes, many of which deserve a hard look from SEA<sup>27</sup> One alternative route that clearly requires SEA's attention and analysis is the route from CN's crossing of the EJ&E Line at Leithton, IL to CN's crossing of the EJ&E Line at Matteson, IL, by way of Tower B-12 at Franklin Park and Blue Island Junction. CN operates on this entire route today (via ownership or trackage rights)<sup>28</sup> This route, north to south (generally), begins at CN's former Wisconsin Central line at its crossing with the EJ&E at

---

<sup>24</sup> See *Bayport Loop Final Environmental Impact Statement*, STB Fin Docket No 34079, p 1-9 (May 2003)

<sup>25</sup> See 40 C F R § 1502 14(c)

<sup>26</sup> See *President's Council on Environmental Quality*, NEPA's 40 Most Asked Questions, Question 2b (March 16, 1981)

<sup>27</sup> The alternatives are illustrative only and there may be other routings that merit a hard look

<sup>28</sup> See Application, Exhibit 1 Map B, p 515

Leighton, south (across UP's former Milwaukee Road ["MILW"] line and its former Chicago & North Western ["C&NW"] line), past O'Hare Airport and Schiller Park Yard, to a point north of Tower B-12 (near Franklin Park) From this point, there are at least two ways CN could use existing trackage rights to reach Blue Island Junction.

- CN could go south approximately 23 miles on the Indiana Harbour Belt ("IHB") to Blue Island Junction, or
- CN could stay on the WCL past Tower B-12, go east at Forest Park approximately 4 miles on the B&OTC, at Cicero Avenue go south and east on the Belt Railway of Chicago ("BRC") to CN's own Grand Trunk Western ("GTW") (just west of BRC's Rockwell Street Yard), and then south to Blue Island Junction

From Blue Island Junction, CN could use its own GTW line south for approximately 4 miles to a connection with its Illinois Central Gulf ("ICG") line at Harvey, north of Markham Yard, and then go south to CN's crossing of the EJ&E Line at Matteson, IL

Like the CREATE Central Corridor, discussed above, this route would require track and connection upgrades and likely would require additional rail-highway grade separations<sup>29</sup>

However, this route is already substantially built for heavy volumes of freight traffic, which makes it a much better alternative than re-routing huge volumes of traffic to the EJ&E

In addition to the aforementioned routes there may be alternative routes outside the EJ&E Line in Northern Illinois, well outside the greater Chicago metropolitan area, that SEA should urge CN to evaluate and discuss with other railroads Obviously, such alternatives would require that CN reconfigure its operating plan and negotiate with third parties, but this would be a small price to pay if CN could develop a route on trackage that is built to handle large volumes of freight traffic or that could be rebuilt at significantly lower cost (assuming CN is required to

---

<sup>29</sup> In fact, the second alternative of this route overlaps with the CREATE Central Corridor (discussed above) as far as BRC's Rockwell Street Yard

mitigate the adverse environmental impacts of the proposed transaction) than rebuilding the EJ&E Line. Even if CN does not choose to evaluate such options, SEA itself has a NEPA obligation to identify and take a hard look at such alternatives.

#### **D. Mitigation**

To mitigate the adverse effects of the CN Transaction on the Barrington Community, the EIS should require CN to pay the full cost (design, construction and maintenance) of lowering the EJ&E Line into a trench that would allow the streets crossing the line from Cuba Marsh through the Barrington Community to retain their current elevation and grade. It is particularly important that Lake Zurich Road, Routes 14 and 59 (including the UP crossing) and Lake Cook Road remain grade-separated. In addition, CN should be required to pay the full cost of suitable retaining walls and other infrastructure to minimize safety, noise and air quality impacts of the trench. Although a rail trench may seem expensive, even it will not fully mitigate the adverse effects of the proposed CN Transaction. It now seems very clear that the environmental impacts of the proposed acquisition will require CN mitigation expenditures up and down the EJ&E Line that easily will exceed the \$400 million investment that CN would make for itself in the purchase and the improvements to the EJ&E Line. If the CN Transaction is allowed to proceed, the Barrington Community urges the Board and SEA to require that CN complete all mitigation by the earlier of the third anniversary of any final STB decision approving the transaction or the time that CN is running an average of 7 trains per day on the Leighton to Spaulding segment in any consecutive four (4) week period. For the sensitive receptors that are outside the area of the trench, the Barrington Community requests full mitigation for the adverse noise impacts to include building sound insulation and sound barriers.

## COMMENTS TO DRAFT SCOPE OF EIS

### **1. Safety**

Increased CN freight traffic resulting from the proposed CN transaction no doubt will increase the likelihood of at-grade rail crossing accidents. Eight EJ&E Line grade crossings located in the Barrington Community will see significant increases in CN freight traffic. Of those eight crossings, four are located within the corporate limits of the Village of Barrington. The Barrington Community offers no specific comments as to safety at this time on the sub-categories listed in the Draft Scope, but will rely on the Board, SEA and its third-party consultant to fully analyze the increased probability of rail and vehicle accidents, train accidents and derailments and effects on the Metra commuter rail service.

Similarly, the Barrington Community will look to the Board, SEA and its third-party consultant to fully analyze the potential environmental impacts of the CN Transaction on public health and safety related to the transportation of hazardous materials, the likelihood of increased truck traffic and safety issues related to integration of differing rail operations in the area.

Also, the four main crossings in Barrington, and Cuba Road located just outside the village, will see a significant amount of pedestrian traffic due to their proximity to the Barrington High School, community parks and county forest preserve, shops and services. Therefore, the Barrington Community respectfully requests that the Board and SEA expand the scope of sub-category A to include analysis of rail and pedestrian/bicyclist accident probability.

The Barrington Community objects to the 2,500 ADT threshold set forth in the Draft Scope as it relates to Lake Zurich Road. The at-grade crossing at Lake Zurich Road is a major thoroughfare for the community and currently has approximately 2,428 ADT on weekdays (2,151 ADT including weekends). Vehicular, bike and pedestrian traffic on this road is projected to significantly increase as more activities are scheduled and more people utilize both Citizens

Park (which opened in 2007) and the recently completed bike/pedestrian connection from the park to Cuba Marsh. In addition, the Barrington Area Public Library, located adjacent to Citizens Park and serving the entire Barrington area, is proposing a major expansion which is projected to increase vehicular traffic on Lake Zurich Road. Because of the amount of traffic currently on Lake Zurich Road and the projected increase in traffic it will see, the Barrington Community urges the Board to include Lake Zurich Road in its evaluation.

**School and Student Safety.**

Safety of its citizens, especially its children, is of paramount concern to the Barrington Community. The Barrington Community Unit School District 220 serves a student population of 9,200 students from 72 square miles. The school district consists of one high school, two middle schools, and four elementary schools along with one parochial school (located in Barrington and serving kindergarten through eighth grade). Due to the large geographical area covered by the school district, many students need to be bused to and from school. Barrington Transportation, the school bus company providing transportation for Barrington students, reports crossing the EJ&E Line 840 times per day. 60 percent of the school buses cross the EJ&E Line several times per day during their morning and afternoon trips.

Barrington High School is located approximately 600 feet west of the EJ&E Line, right near the Lake Cook Road grade crossing. Barrington High School is the only high school in the school district and as a result serves the entire Barrington Community. It has a population of over 3,000 students and staff, most of whom cross the EJ&E Line twice per day on their daily commute either by vehicle or on foot.



The Barrington Community respectfully requests that the Board and SEA expand the scope of their safety analysis to include the specific safety issues relating to student safety as a result of the CN Transaction

**Police, Fire and Emergency Services.**

The Barrington Community respectfully requests that the Board and SEA expand the scope of their safety analysis to include the effects of the CN Transaction on emergency response services See Section 2 *infra* for a discussion on police, fire and emergency services

**2. Transportation Systems**

With respect to sub-category E in the Draft Scope, Barrington currently experiences a total delay of 10 minutes at the 4 main crossings of the EJ&E Line – Lake Zurich Road, Route 14, Route 59 and Lake Cook Road – in a 24-hour period It is estimated that by 2010, Barrington would experience 5 hours 45 minutes of delay.<sup>30</sup> With additional Port of Prince Rupert freight trains, future delay could range from 8 hours 17 minutes to 10 hours 29 minutes per day in 2010 By 2015, delay with additional Port of Prince Rupert freight traffic could range from 17 hours 10 minutes to 26 hours 29 minutes per day

Currently, a total of 646 vehicles<sup>31</sup> experience delay at the four main Barrington crossings of the EJ&E Line in a 24-hour period By 2010, it is estimated that 3,397 vehicles will experience delay at the four main Barrington crossings in a 24-hour period<sup>32</sup> Taking in to

---

<sup>30</sup> The 2010 delay was calculated based on data from CN's Operating Plan See Application, at 208. The estimated time delay is additive of the four main crossings That is, these numbers represent the total delay time at the four main crossings

<sup>31</sup> The number of vehicles delayed is additive of the four main crossings That is, these numbers represent the total number of vehicles delayed at the four main crossings

<sup>32</sup> The 2010 delay was calculated based on data from CN's Operating Plan. See Application, at 208 An estimated train speed of 40 mph and a future train length of 9,900 feet

account the Port of Prince Rupert traffic, vehicles experiencing delay could range from 4,077 to 4,586 vehicles per day by 2010. By 2015, the range could increase to 5,998 to 7,452 vehicles delayed per day

However, conventional methods for quantifying vehicle delay do not accurately assess the impacts of additional train traffic on the EJ&E Line within Barrington, due to the unique configuration and operation of the highway and rail networks within Barrington. The EJ&E Line crosses the UP Northwest Line just west of Barrington's central business district. The Northwest Line carries 65 commuter rail trains per weekday in addition to freight and maintenance traffic. Because two of the Hough Street and Lake Cook Road/Main Street intersection legs both must be cleared for each UP railroad preemption event, the advance warning times are longer than usual, resulting in gate down times that total as much as 17 percent of the peak traffic hours. These delays, combined with heavy traffic demand and the two-lane roadway cross sections, result in long vehicle queues in both directions on Hough Street as well as on Lake Cook Road. It is common for Hough Street to back up in both directions between Hillside Avenue on the south and Northwest Highway on the north during peak hours, a distance of nearly 1.5 miles. During these times, downstream traffic congestion prohibits vehicle queues from discharging freely after a traffic signal red display or a railroad preemption. The addition of trains to the EJ&E Line will have a much more far reaching impact than that estimated by conventional methods of delay measurement.

Therefore, Barrington respectfully submits that when analyzing traffic delays in Barrington, the Board and SEA use an individual driver behavior-based traffic simulation program to more accurately calculate the impacts of adding trains to the EJ&E Line. The transportation network developed for the computer simulation should include arterial and

collector streets and should extend from Route 59/Barrington Road intersection on the south to a point north of Northwest Highway, and from a point west of Hart Road on the west to a point east of Northwest Highway at Lake Cook Road. The network should include actual traffic signal timing data and gate down times, and it should be calibrated to simulate actual traffic flows. Only by using such analysis tools can accurate measures of effectiveness be developed to quantify the far reaching effects of additional rail traffic volumes on the Barrington Community and the larger surrounding region.

**Police, Fire and Emergency Services.**

These traffic delays not only cause frustration for commuters and pedestrians, but also pose life-threatening delays in police, fire and EMS response times. The Barrington Fire Department provides fire protection, emergency treatment and transport of medical patients to more than 23,000 citizens in Barrington and within the Barrington-Countryside Fire Protection District (*i.e.*, Barrington Hills, Lake Barrington, South Barrington and unincorporated Cuba and Barrington Townships). The Barrington Fire Department has three fire stations, manpower and equipment strategically located throughout its service area. At each of the three fire stations, a crew of three firefighter/paramedics responds in either an ambulance or fire pumper, depending on the nature of the call. The department protects more than 50 square miles in which residents and commuters depend upon major arterial state highways and county roadways that are intersected by the EJ&E Line. The Fire Department relies on these same highways and roadways for prompt response to emergency calls and expeditious transport of emergency medical patients to local hospitals.

The Village of Barrington Public Works facility, including the waste water treatment plant and fueling station, is located off Lake Cook Road, just west of the EJ&E Line grade.

crossing. The public works facility is used by all departments including police and fire. Emergency response from this facility will be impacted by the future increase in rail traffic blocking the grade crossing at Lake Cook Road. This will adversely impact shared police and water and sewer services provided to the Village of Inverness and fire and EMS services provided to the Barrington Countryside Fire Protection District. Moreover, the EJ&E Line separates Barrington's public works facility from the water towers and the entire related infrastructure required to provide this essential service. A significant delay at the tracks will adversely impact response times in the event of system emergencies, such as water and sewer main breaks.

Advocate Good Shepherd Hospital is located on the west side of the EJ&E Line. Good Shepherd is a Level II Trauma Center serving the Barrington Community. Last year, Good Shepherd handled 750 serious trauma cases in their emergency department. Approximately one-third of ambulance runs in the area to Good Shepherd originated on the other side of the EJ&E Line. Trauma patients have what doctors call the "golden hour," the window of time between the significant injury and treatment. This golden hour is when chances of survival are best. Appropriately, Illinois law requires that in order to serve as a trauma center, Good Shepherd surgeons and specialists must be able to arrive within 30 minutes of a trauma.<sup>33</sup>

Heart disease is the number one killer in Illinois and the reason Good Shepherd established its state-of-the-art cardiac care center, considered by many to be the finest in the region. If a person has a heart attack in downtown Barrington, they are just 2.6 miles (6 minutes) from Good Shepherd. If the ambulance's path is blocked at a grade crossing, the nearest alternatives are St. Alexius Medical Center (7.15 miles and 14 minutes), Northwest Community

---

<sup>33</sup> Ill. Admin. Code tit. 77, § 515.2040(c) (2001).

Hospital (12.17 miles and 25 minutes away), and Sherman Hospital (12.4 miles and 25 minutes away). If a victim is in cardiac arrest, every minute treatment is delayed increases the likelihood of death by 10 percent. Thus, a mere five-minute delay reduces the victim's chances of survival to just 50 percent.

As to the remaining sub-categories in the Transportation Systems category, the Barrington Community offers no specific comments at this time, but will rely on the Board, SEA and the third-party consultant to fully analyze those issues. We request that the Board and SEA carefully analyze the impacts to Metra Commuter Rail and the UP Line.

### **3. Land Use and Socioeconomics**

Barrington's downtown commercial district is the economic and social heart of the entire community, and the proposed expansion of freight traffic on the EJ&E line will have significant adverse economic impacts for the Barrington Community.

There are 355 businesses located in the central business district, including professional services firms, financial institutions, retail shopping, personal services, and the only grocery store and drugstores in town. The downtown business district is one of the principal destinations for Barrington residents and residents of the surrounding communities to purchase goods and services and is a critical economic engine for Barrington, contributing to approximately 30 percent of local sales tax revenue.

The major increase in traffic that would result from the CN Transaction will cause significant congestion and delays on several of the major roads leading in and out of the downtown commercial district, creating a disincentive for consumers to come into the district and encouraging them to shop elsewhere. This loss of consumer traffic will lead to reduced retail sales and correspondingly reduced sales tax revenue to Barrington, and will discourage businesses from choosing to locate or remain in the downtown.

There also will be adverse economic impacts for employers and workers resulting from commuting delays associated with the project. Barrington serves as a commuter transit hub for over 1,600 commuters daily. The loss of productive time resulting from congestion and increased commute times will have further negative impact on the local and regional economy.

In sub-category E of this section, SEA has stated that the EIS will “propose mitigative measures to minimize or eliminate potential project adverse impacts to social and economic resources.” The Barrington Community requests that each Environmental Impact Category in the Draft Scope include a sub-category requiring the EIS to propose and identify appropriate mitigative measures to minimize or eliminate the potential adverse impacts of the proposed CN Transaction.

#### **4. Energy**

The significant increase in traffic congestion that would result from the CN Transaction will translate directly into an increase in fuel consumption in the Barrington Community. Vehicles sitting and idling at blocked crossings will result in an additional 38 million BTUs (MMBTU) wasted annually. Compare this to the fact that currently, idling vehicles waste about 1 MMBTU at the EJ&E at-grade crossings.<sup>34</sup>

The Barrington Community urges the Board and SEA to take a hard look at the likely increase in energy consumption as a result of the CN Transaction and also to evaluate energy consumption for all reasonable alternatives to the CN Transaction.

#### **5. Noise and Vibration**

The significant increase in the number of freight trains cutting through Barrington on the EJ&E Line will dramatically increase noise levels. Beyond the noise generated by the freight

---

<sup>34</sup> MMBTUs were calculated using ADT, calculated vehicle delay times, national fleet fractions, MOBILE 6.2 emission rates, and U.S. EPA energy conversion factors.

train horn, the homes along the rail corridor will be inundated with wayside noise and train engine noise. The following methods should be used to determine if the project alternatives would result in a 3A-weighted decibel (dBA) increase or if railroad noise levels (due to wayside noise and locomotive warning horn) would equal or exceed a 65 dBA day-night average noise level (DNL) or greater:

- **Noise Models.** the wayside noise model should be based on past Surface Transportation Board noise studies.<sup>35</sup> The overall noise model results should account for horn noise, locomotive and rail car noise, train length, and train speed. Noise contours should be developed using wayside and horn reference levels and should calculate building shielding effects.
- **Measure or Calculate Ambient Noise** to establish a baseline for determining if there would be a 3-dBA or greater increase in noise, ambient noise in the study area should be measured or calculated.
- **Count Noise-Sensitive Receptors** estimate the number of noise sensitive receptors (*e.g.*, residences, schools, places of worship) within the 65 DNL noise contours for the project alternatives or where the DNL would increase by at least 3 dBA. The final result of this analysis should be an estimate of the total number of receptors likely to be exposed to 65 DNL or greater and the number of receptors where the DNL would increase by at least 3 dBA because of the project alternatives.
- **Vibration impacts** due to train operations should be evaluated using Federal Transit Administration methods.<sup>36</sup>

## **6. Cultural and Historic Resources**

The Village of Barrington Historic District is composed of over 400 properties, most of which are single family residential structures. The district, which is listed on the National Register of Historic Places, contains the largest collection of protected residential structures in the State of Illinois. The district is within approximately 250 feet east of the EJ&E Line, from

---

<sup>35</sup> See *Final Environmental Impact Statement, Construction and Operation of a Rail Line from the Bayport Loop in Harris County, TX*, STB File Docket No. 34079 (2003).

<sup>36</sup> See *Transit Noise and Vibration Impact Assessment*, Federal Transit Administration (1995).

Applebee Street (approximately 1.5 blocks north of Lake Cook Road/Main Street) to Lincoln Avenue (3 blocks south of Lake Cook Road/Main Street)

## **7. Air Quality**

Diesel engines are one of the largest sources of fine particulate matter in the United States, a top trigger for asthma. In 2006, the emergency room at Good Shepherd treated 140 asthmatic attack patients, the majority of whom were children. The significant increase in the number of freight trains running through Barrington will increase the emission of fine particulate matter in the area, triggering many more asthmatic attacks for residents. The Barrington Community urges the Board and SEA to closely analyze the effect the CN Transaction would have on air quality and the negative effects of fine particulate matter on residents.

The addition of 15 trains per day through the Barrington Communities will cause an increase in PM-2.5 emissions of 241,119 grams PM-2.5 per year, assuming there are no idling trains.<sup>37</sup> Because Chicago and its surrounding counties, including Lake and Cook Counties, are in non-attainment areas for PM-2.5 under the Clean Air Act, the CN Transaction will further exacerbate the problem by causing cars and diesel trucks to idle at the numerous at-grade crossings of the EJ&E. An increase in diesel truck idling along the four at-grade crossings in Barrington also will cause an increase in PM-2.5 emissions. The increase of idling diesel trucks coupled with the emissions from the additional locomotives will result in a measurable annual increase in fine particulate matter. This increase could lead to chronic long term effects to residents in close proximity to the rail line and idling vehicles. The Barrington Community

---

<sup>37</sup> The PM-2.5 increase was calculated using methodology from *Final Environmental Impact Statement, Construction and Operation of a Rail Line from the Bayport Loop in Harris County, TX*, STB Fin. Docket No. 34079 (2003).



urges the Board and SEA to closely analyze the effect the CN Transaction would have on air quality and the negative effects of fine particulate matter on residents

**8. Other Categories**

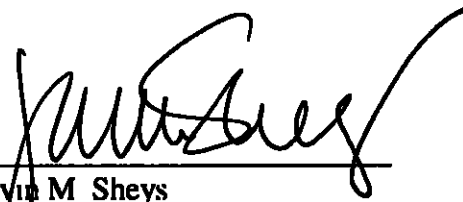
The Barrington Community has no specific comments with respect to the other categories outlined in the Scoping Notice, but urges SEA to carefully review the comments of other interested parties

**CONCLUSION**

The Barrington Community respectfully requests that SEA and the Board consider all of the foregoing comments to the Draft Scope and revise the Draft Scope accordingly

Respectfully submitted,

By

  
\_\_\_\_\_  
Kevin M. Sheys  
Edward J. Fishman  
Janie Sheng  
Brendon P. Fowler  
Kirkpatrick & Lockhart Preston Gates Ellis LLP  
1601 K Street NW  
Washington, D C 20006  
(202) 778-9000

**ATTORNEYS FOR  
THE VILLAGE OF BARRINGTON,  
ILLINOIS**

Dated February 15, 2008

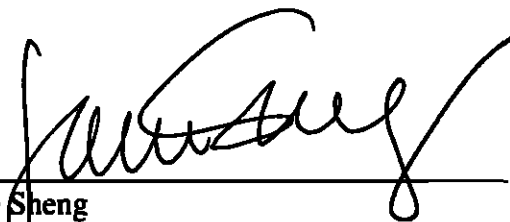
**CERTIFICATE OF SERVICE**

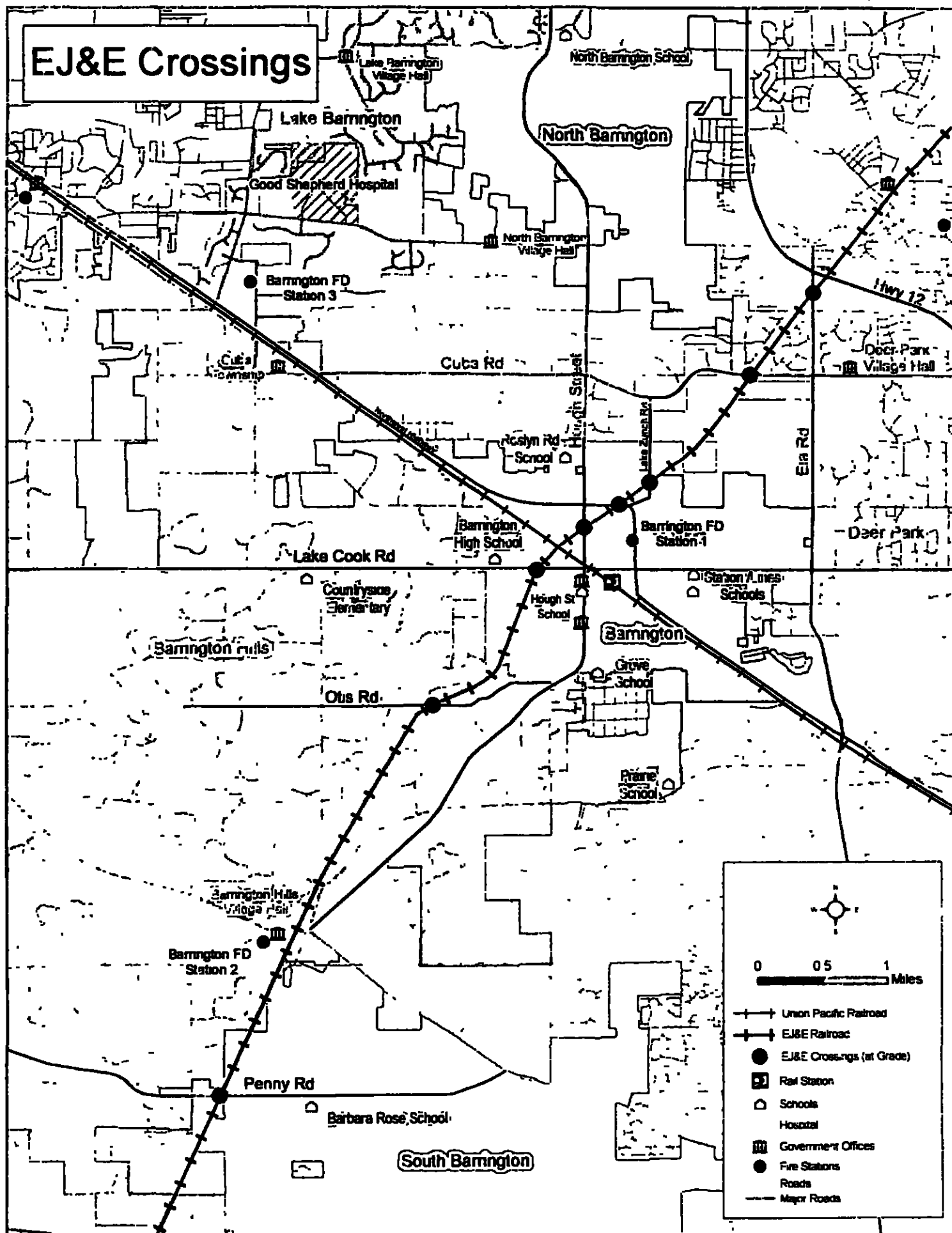
I hereby certify that on February 15, 2008, I caused the foregoing **Village of Barrington's Comments to the Draft Scope of the Environmental Impact Statement** to be served via first class mail, postage prepaid, or by a more expeditious method of delivery, this 15<sup>th</sup> of February 2008 on all parties of record and on the following

Paul A. Cunningham  
Harkins Cunningham LLP  
1700 K Street N.W., Suite 400  
Washington, D.C. 20006-3804

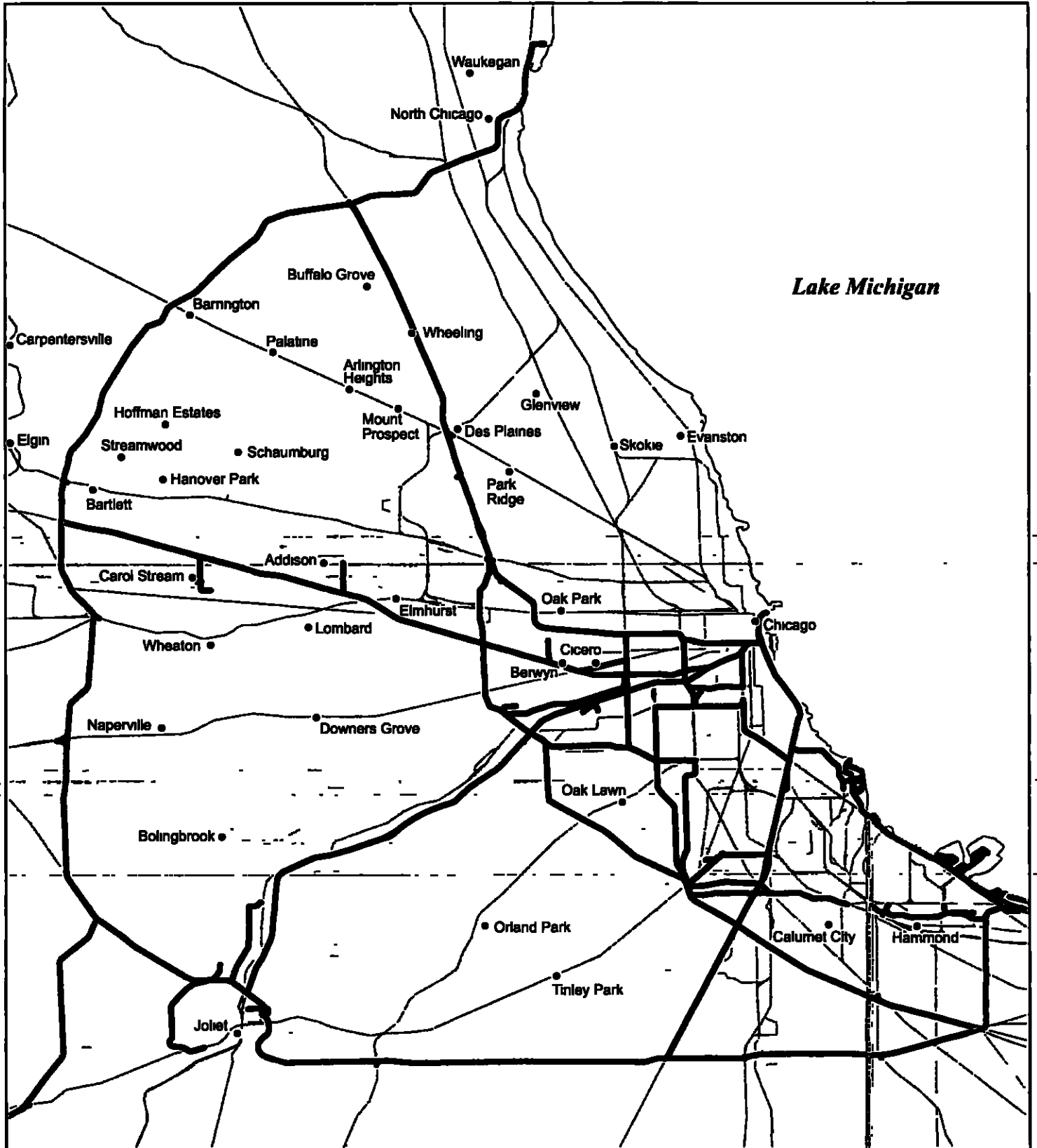
Secretary of Transportation  
1200 New Jersey Avenue, S.E.  
Washington, D.C. 20590

Attorney General of the United States  
c/o Assistant Attorney General  
Antitrust Division, Room 3109  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530-0001

  
\_\_\_\_\_  
Janie Sheng



## Exhibit 2 – Central Corridor Map



### Legend

- City
- EJE
- Central Corridor
- Canadian National

0 10 20 Miles

